

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BC MEDIA FUNDING COMPANY II and MEDIA
FUNDING COMPANY,

Plaintiffs,

-against-

FRANK LAZAUSKAS, MICHAEL L. METTER,
LEONARD F. MUSCATI and B. MICHAEL PISANI,

Defendants.
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: **ECF CASE**

: 08-CV-06228 (RPP) (RLE)

**PLAINTIFFS' RESPONSE AND OPPOSITION TO MOTIONS FOR ORDER TO
"RE-PLEAD" AND FOR EXTENSION OF TIME**

Although Defendants' motion is styled as a motion to replead, what Defendants really want here is for Plaintiffs to be required to file a complaint and then for Defendants to be allotted time to answer, as in an ordinary lawsuit. However, this case, by a lender against guarantors on a defaulted debt, was commenced under the expeditious and efficient debt collection procedures of CPLR 3213. As the case law cited in Plaintiff's Supplemental Memorandum Of Law In Support Of Plaintiffs' Motion For Summary Judgment ("Plaintiffs' Supplemental Memo")¹ shows, those procedures remain applicable in federal court even when the case is removed. Consequently, Defendants are not permitted to derail those procedures by the simple act of removal. Nor should Defendants be granted more time to oppose the motion than what is allotted to them under the CPLR or the Local Rules of this Court.

The motions should be denied.

¹ This memorandum of law was filed with the Court via the ECF system on July 15, 2008.

Dated: July 16, 2008

Respectfully Submitted,

WINSTON & STRAWN LLP

By: _____/S/

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